

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

THE ESTATE OF LALIAH SWAYZER, et al.

Plaintiffs,

Case No: 16-CV-1703

v.

DAVID J. CLARKE JR., et al.

Defendants.

L. R. 7(k) NOTICE OF SUPPLEMENTAL AUTHORITY

Plaintiff and Plaintiff's attorney, by his representative counsel, BARNES LAW, LLP, respectfully submit the attached Supplemental Authority pursuant to L.R. 7(k) regarding the Wisconsin Supreme Court's, Office of Lawyer Regulation, determination that Attorney Margaret Daun, Corporate Counsel for Milwaukee County, failed to sustain her burden that professional misconduct had occurred in relation to the Milwaukee County's Motion for Sanctions for Professional Misconduct. (D.317-318) The attached Supplemental Authority is relevant to the following pages:

Pages 3-5, 6, 10, 13 of Plaintiff's Opposition to Milwaukee County's Motion for Sanctions Against Plaintiff's Counsel, ECF No.331.

Respectfully Submitted,

Barnes Law

By: s/ Robert E. Barnes

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Supreme Court of Wisconsin

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September 4, 2019

Atty. Margaret Daun
Milwaukee County Office of Corporation Counsel
901 N 9th Street, Suite 303
Milwaukee, WI 53233

PERSONAL AND CONFIDENTIAL

Re: Inquiry Regarding Atty. James Gende II

Dear Atty. Daun:

Based on a preliminary intake evaluation of your inquiry, the Office of Lawyer Regulation has determined that there is an insufficient basis to proceed. The information provided did not offer sufficient proof that Atty. James Gende II violated any of the rules of professional conduct. You expressed a concern with regard to statements Atty. Gende made that were featured in a Fox6 News story from February 27, 2019. However, based on the information provided, there is insufficient evidence to demonstrate that the statements Atty. Gende made in connection with that story are statements that he knew or should have known would have a substantial likelihood of materially prejudicing an adjudicative proceeding. Therefore, the matter will not be forwarded for formal investigation and will be closed at this time. That being said, our office is aware that there is a pending motion regarding this issue before the United States District Court for the Eastern District of Wisconsin in case number 16-CV-1703. The District Court is likely in a better position to determine whether any particular media statement has a substantial likelihood of materially prejudicing a proceeding before it. Therefore, should that court issue a decision finding that Atty. Gende has violated SCR 20:3.6 and/or finding that the statements Atty. Gende made to the media were statements that he knew or reasonably should have known would have a substantial likelihood of materially prejudicing an adjudicative proceeding, you are welcome to provide that information to our office for consideration.

The Supreme Court Rules provide that you may request review of the decision to close this matter. Any such request must be in writing, and must be received by the Director within 30 days of the date of this letter. Timely requests for an extension may be granted for good cause shown. Following receipt of a proper request, the Director will review the matter and may affirm the closure or refer the grievance to staff for further evaluation. Pursuant to SCR 22.02(4), the Director's decision is final. If you request review, you will receive written notice of the Director's decision.

Atty. Margaret Daun
September 4, 2019
Page 2

Pursuant to SCR 22.40(1), this agency must keep requests for investigation confidential. Our file and all records pertaining to this matter will be expunged after a period of three years. Should you wish to retain your records on this matter, you are free to do so.

Thank you for bringing this matter to our attention. It is through the receipt of such information that we are made aware of matters that are of concern to the public.

Very truly yours,

A handwritten signature in black ink, appearing to read 'K. Galarowicz', with a stylized flourish at the end.

Kathryn Galarowicz
Intake Investigator

KG:ams

cc: Atty. James Gende II